

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION
Central Valley Project, California

LONG-TERM RENEWAL CONTRACT BETWEEN THE
UNITED STATES BUREAU OF RECLAMATION
AND
THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
PROVIDING FOR PROJECT WATER SERVICE
FROM DELTA DIVISION

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1 UNITED STATES
2 DEPARTMENT OF THE INTERIOR
3 BUREAU OF RECLAMATION
4 Central Valley Project, California

5 LONG-TERM RENEWAL CONTRACT BETWEEN THE
6 UNITED STATES BUREAU OF RECLAMATION
7 AND
8 THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS
9 PROVIDING FOR PROJECT WATER SERVICE
10 FROM DELTA DIVISION

11 THIS CONTRACT, made this _____ day of _____, 20____, in pursuance
12 generally of the Act of June 17, 1902 (32 Stat. 388), and acts amendatory or supplementary thereto,
13 including, but not limited to, the Acts of August 26, 1937 (50 Stat. 844), as amended and
14 supplemented, August 4, 1939 (53 Stat. 1187), as amended and supplemented, June 21, 1963 (77
15 Stat. 68), October 12, 1982 (96 Stat. 1263), October 27, 1986 (100 Stat. 3050), as amended, and Title
16 XXXIV of the Act of October 30, 1992 (106 Stat. 4706), all collectively hereinafter referred to as
17 Federal Reclamation law, between THE UNITED STATES OF AMERICA, hereinafter referred to as
18 the United States, and THE UNITED STATES DEPARTMENT OF VETERANS AFFAIRS,
19 hereinafter referred to as the Contractor;

20 WITNESSETH, That:

21 EXPLANATORY RECITALS

22 [1st] WHEREAS, the United States has constructed and is operating the Central
23 Valley Project, California, for diversion, storage, carriage, distribution and beneficial use, for flood

24 control, irrigation, municipal, domestic, industrial, fish and wildlife mitigation, protection and
25 restoration, generation and distribution of electric energy, salinity control, navigation and other
26 beneficial uses, of waters of the Sacramento River, the American River, the Trinity River, and the
27 San Joaquin River and their tributaries; and

28 [2nd] WHEREAS, the United States constructed the Delta-Mendota Canal and related
29 facilities, hereinafter collectively referred to as the Delta Division Facilities, which will be used in
30 part for the furnishing of water to the Contractor pursuant to the terms of this Contract; and

31 [3rd] WHEREAS, the rights to Project Water were acquired by the United States pursuant
32 to California law for operation of the Project; and

33 [4th] WHEREAS, the Contractor and the United States entered into Contract
34 No. 3-07-20-W1124, on January 1, 1993, which established terms for the delivery up to 450 acre-feet
35 to the Contractor of Central Valley Project Water from the Delta Mendota Canal Division Facilities
36 from January 1, 1993, through February 28, 2003; and

37 [5th] WHEREAS, the Contractor and the United States have pursuant to subsection
38 3404(c)(3) of the Central Valley Project improvement Act (CVPIA), subsequently entered into
39 renewal contracts identified as Contract No. 3-07-20-W1124-R, and Contract No. 3-07-20-W1124-
40 IR1 the current of which is hereinafter referred to as the Existing Contract, which provides for the
41 continued water service to the Contractor from March 1, 2004, through February 26, 2006; and

42 [5.1] WHEREAS, the United States and the State of California, Department of Water
43 Resources, hereinafter referred to as the State, have entered into agreements, hereinafter referred to as
44 the CVP-SWP Wheeling Agreement (s), for the conveyance of Project Water from the Sacramento-
45 San Joaquin Delta to the point(s) at which the Contractor is willing to take delivery of Project Water;

46 and

47 [6th] WHEREAS, Section 3404(c) of the CVPIA provides for long-term renewal of interim
48 and existing long-term Central Valley Project Water service contracts following completion of
49 appropriate environmental documentation, including a programmatic environmental impact statement
50 (PEIS) pursuant to the National Environmental Policy Act analyzing the direct and indirect impacts
51 and benefits of implementing the CVPIA and the potential renewal of all existing contracts for
52 Project Water; and

53 [7th] WHEREAS, the United States has completed the PEIS and all other appropriate
54 environmental review necessary to provide for long-term renewal of the Existing Contract; and

55 [8th] WHEREAS, the Contractor has requested the long-term renewal of the Existing
56 Contract, pursuant to the terms of the Existing Contract, Federal Reclamation law, and the laws of the
57 State of California, for water service from the Project; and

58 [9th] WHEREAS, the United States has determined that the Contractor has fulfilled all of
59 its obligations under the Existing Contract; and

60 [10th] WHEREAS, the Contractor has demonstrated to the satisfaction of the Contracting
61 Officer that the Contractor has utilized the Central Valley Project Water supplies available to it for
62 reasonable and beneficial use and/or has demonstrated projected future demand for water use such
63 that the Contractor has the capability and expects to utilize fully for reasonable and beneficial use the
64 quantity of Project Water to be made available to it pursuant to this Contract; and

65 [11th] WHEREAS, water obtained from the Central Valley Project has been relied
66 upon by urban areas within California for more than 50 years, and is considered by the Contractor as

67 an essential portion of its water supply; and

68 [12th] WHEREAS, the economies of regions within the Central Valley Project, including the
69 Contractor's, depend upon the continued availability of water, including water service from the
70 Central Valley Project; and

71 [13th] WHEREAS, in the CALFED Programmatic Record of Decision, dated August 28,
72 2000, the United States and the State of California adopted a general target of continuously
73 improving Delta water quality for all uses. The CALFED Agencies' target for providing safe,
74 reliable, and affordable drinking water in a cost-effective way, is to achieve either: (a) average
75 concentrations at Clifton Court Forebay and other southern and central Delta drinking water intakes
76 of 50 ug/L bromide and 3.0 mg/L total organic carbon, or (b) an equivalent level of public health
77 protection using a
78 cost-effective combination of alternative source waters, source control and treatment technologies;
79 and

80 [14th] WHEREAS, the Secretary intends through coordination, cooperation, and partnerships
81 to pursue measures to improve water supply, water quality, and reliability of the Project for all
82 Project purposes; and

83 [15th] WHEREAS, the mutual goals of the United States and the Contractor include: to
84 provide for reliable Central Valley Project Water supplies; to control costs of those supplies; to
85 achieve repayment of the Central Valley Project as required by law; to guard reasonably against
86 Central Valley Project Water shortages; to achieve a reasonable balance among competing demands
87 for use of Central Valley Project Water; and to comply with all applicable environmental statutes, all
88 consistent with the legal obligations of the United States relative to the Central Valley Project; and

89 [16th] WHEREAS, the parties intend by this Contract to develop a more cooperative
90 relationship in order to achieve their mutual goals; and

91 [17th] WHEREAS, the United States and the Contractor are willing to enter into this
92 long-term renewal contract pursuant to Federal Reclamation law on the terms and conditions set forth
93 below;

94 NOW, THEREFORE, in consideration of the mutual and dependent covenants herein
95 contained, it is hereby mutually agreed by the parties hereto as follows:

96 DEFINITIONS

97 1. When used herein unless otherwise distinctly expressed, or manifestly incompatible
98 with the intent of the parties as expressed in this Contract, the term:

99 (a) “Calendar Year” shall mean the period January 1 through December 31, both
100 dates inclusive;

101 (b) “Charges” shall mean the payments required by Federal Reclamation law in
102 addition to the Rates and Tiered Pricing Components specified in this Contract as determined
103 annually by the Contracting Officer pursuant to this Contract;

104 (c) “Condition of Shortage” shall mean a condition respecting the Project during
105 any Year such that the Contracting Officer is unable to deliver sufficient water to meet the Contract
106 Total;

107 (d) “Contracting Officer” shall mean the Secretary of the Interior’s duly
108 authorized representative acting pursuant to this Contract or applicable Federal Reclamation law or
109 regulation;

110 (e) "Contract Total" shall mean the maximum amount of water to which the
111 Contractor is entitled under subdivision (a) of Article 3 of this Contract;

112 (f) "Contractor's Service Area" shall mean the area to which the Contractor is
113 permitted to provide Project Water under this Contract as described in Exhibit "A" attached hereto,
114 which may be modified from time to time in accordance with Article 35 of this Contract without
115 amendment of this Contract;

116 (g) "CVPIA" shall mean the Central Valley Project Improvement Act, Title
117 XXXIV of the Act of October 30, 1992 (106 Stat. 4706);

118 (g.1) "Delta Division Facilities" shall mean those existing and future Project
119 facilities in and south of the Sacramento-San Joaquin Rivers Delta, including, but not limited to, the
120 Tracy Pumping Plant, the O'Neill Forebay, the O'Neill Pumping/Generating Plant, and the San Luis
121 Reservoir, used to divert, store and convey water to those Project Contractors entitled to receive
122 water conveyed through the Delta-Mendota Canal.

123 (h-i) Omitted;

124 (j) "Full Cost Rate" shall mean an annual rate, as determined by the Contracting
125 Officer that shall amortize the expenditures for construction properly allocable to the Project
126 Irrigation or M&I functions, as appropriate, of facilities in service including all operation and
127 maintenance deficits funded, less payments, over such periods as may be required under Federal
128 Reclamation law, or applicable contract provisions. Interest will accrue on both the construction
129 expenditures and funded Operations and Maintenance deficits from October 12, 1982, on costs
130 outstanding at that date, or from the date incurred in the case of costs arising subsequent to
131 October 12, 1982, and shall be calculated in accordance with subsections 202(3)(B) and (3)(C) of the

132 Reclamation Reform Act. The full-cost rate includes actual operation, maintenance, and replacement
133 costs consistent with Section 426.2 of the Rules and Regulations for the RRA;

134 (k-l) Omitted;

135 (m) "Irrigation Water" shall mean water made available from the Project that is
136 used primarily in the production of agricultural crops or livestock, including domestic use incidental
137 thereto, and watering of livestock;

138 (n) Omitted;

139 (o) "Municipal and Industrial (M&I) Water" shall mean Project Water, other than
140 Irrigation Water, made available to the Contractor. M&I Water shall include water used for human
141 use and purposes such as the watering of landscaping or pasture for animals (e.g., horses) which are
142 kept for personal enjoyment or water delivered to land holdings operated in units of less than five
143 acres unless the Contractor establishes to the satisfaction of the Contracting Officer that the use of
144 water delivered to any such landholding is a use described in subdivision (m) of this Article;

145 (p) "M&I Full Cost Water Rate" shall mean the Full Cost Rate applicable to the
146 delivery of M&I Water;

147 (q) "Operation and Maintenance" or "O&M" shall mean normal and reasonable
148 care, control, operation, repair, replacement (other than Capital replacement), and maintenance of
149 Project facilities;

150 (r) "Operating Non-Federal Entity" shall mean the entity(ies), its (their)
151 successors or assigns, which has (have) the obligation to operate and maintain all or a portion of the
152 Delta Division Facilities pursuant to written agreement(s) with the United States. When this Contract
153 was entered into, the Operating Non-Federal Entity(ies) was (were) the San Luis Delta-Mendota

154 Water Authority;

155 (s) “Project” shall mean the Central Valley Project owned by the United States
156 and managed by the Department of the Interior, Bureau of Reclamation;

157 (t) “Project Contractors” shall mean all parties who have water service contracts
158 for Project Water from the Project with the United States pursuant to Federal Reclamation law;

159 (u) “Project Water” shall mean all water that is developed, diverted, stored, or
160 delivered by the Secretary in accordance with the statutes authorizing the Project and in accordance
161 with the terms and conditions of water rights acquired pursuant to California law;

162 (v) “Rates” shall mean the payments determined annually by the Contracting
163 Officer in accordance with the then current applicable water ratesetting policies for the Project, as
164 described in subdivision (a) of Article 7 of this Contract;

165 (w) “Recent Historic Average” shall mean the most recent five-year average of the
166 final forecast of water made available to the Contractor pursuant to this Contract or its preceding
167 contract(s);

168 (x) “Secretary” shall mean the Secretary of the Interior, a duly appointed
169 successor, or an authorized representative acting pursuant to any authority of the Secretary and
170 through any agency of the Department of the Interior;

171 (y) “Tiered Pricing Component” shall be the incremental amount to be paid for
172 each acre-foot of water delivered as described in subdivision (j) of Article 7 of this Contract;

173 (z) “Water Delivered” or “Delivered Water” shall mean Project Water diverted for
174 use by the Contractor at the point(s) of delivery approved by the Contracting Officer;

175 (aa) “Water Made Available” shall mean the estimated amount of Project Water

176 that can be delivered to the Contractor for the upcoming year as declared by the Contracting Officer,
177 pursuant to subdivision (a) of Article 4 of this Contract;

178 (bb) "Water Scheduled" shall mean Project Water Made Available to the Contractor
179 for which times and quantities for delivery have been established by the Contractor and Contracting
180 Officer, pursuant to subdivision (b) of Article 4 of this Contract; and

181 (cc) "Year" shall mean the period from and including March 1 of each Calendar
182 Year through the last day of February of the following Calendar Year.

183 TERM OF CONTRACT

184 2. (a) This Contract shall be effective March 1, 20____, through February 28, 20____.
185 In the event the Contractor wishes to renew the Contract beyond February 28, 20____, the Contractor
186 shall submit a request for renewal in writing to the Contracting Officer no later than two years prior
187 to the date this Contract expires.

188 (b) Omitted.

189 (c) This Contract shall be renewed for successive periods of up to 40 years each,
190 which periods shall be consistent with the then-existing Reclamation-wide policy, under terms and
191 conditions mutually agreeable to the parties and consistent with Federal and State law. The
192 Contractor shall be afforded the opportunity to comment to the Contracting Officer on the proposed
193 adoption and application of any revised Reclamation-wide policy applicable to the delivery of Project
194 M&I Water that would limit the term of any subsequent renewal contract with the Contractor for the
195 furnishing of M&I Water to less than 40 years.

196 (d) The Contracting Officer shall make a determination ten years after the date of
197 execution of this Contract, and every five years thereafter during the term of this Contract, of whether

198 a conversion to a contract under subsection (c)(1) of Section 9 of the Reclamation Project Act of
199 1939 can be accomplished. The Contracting Officer anticipates that during the term of this Contract,
200 all authorized project construction expected to occur will have occurred, and on that basis the
201 Contracting Officer agrees upon such completion to allocate all costs that are properly assignable to
202 the Contractor, and agrees further that, at any time after such allocation is made, and subject to
203 satisfaction of the conditions set out in this subdivision of this Article, this Contract shall, at the
204 request of the Contractor, be converted to a contract under said subsection (c)(1) of Section 9, subject
205 to applicable Federal law and under stated terms and conditions mutually agreeable to the Contractor
206 and the Contracting Officer. A condition for such conversion to occur shall be a determination by the
207 Contracting Officer that, account being taken of the amount credited to return by the Contractor as
208 provided for under Federal Reclamation law, the remaining amount of construction costs assignable
209 for ultimate return by the Contractor can probably be repaid to the United States within the term of a
210 contract under said subsection (c)(1) of Section 9. If the remaining amount of costs that are properly
211 assignable to the Contractor cannot be determined during the term of this Contract, the Contracting
212 Officer shall notify the Contractor, and provide the reason(s) why such a determination could not be
213 made. Further, the Contracting Officer shall make such a determination as soon thereafter as possible
214 so as to permit, upon request of the Contractor and satisfaction of the conditions set out above,
215 conversion to a contract under said subsection (c)(1) of Section 9.

216 WATER TO BE MADE AVAILABLE AND DELIVERED TO THE CONTRACTOR

217 3. (a) (1) During each Year, consistent with all applicable State water rights,
218 permits, and licenses, Federal law, and subject to the provisions set forth in Articles 11 and 12 of this
219 Contract, the Contracting Officer shall make available for delivery to the Contractor up to 850 acre-

220 feet of water for M&I purposes. The quantity of Water Delivered to the Contractor in accordance
221 with this subdivision shall be scheduled and paid for pursuant to the provisions of Articles 4 and 7 of
222 this Contract.

223 (b) Because the capacity of the Project to deliver Project Water has been
224 constrained in recent years and may be constrained in the future due to many factors including
225 hydrologic conditions and implementation of Federal and State laws, the likelihood of the Contractor
226 actually receiving the amount of Project Water set out in subdivision (a) of this Article in any given
227 Year is uncertain. The Contracting Officer's most recent modeling referenced in the PEIS projected
228 that the Contract Total set forth in this Contract will not be available to the Contractor in many years.
229 During the most recent five years, the Recent Historic Average of Water Made Available to the
230 Contractor was 768 acre-feet. Nothing in subdivision (b) of this Article shall affect the rights and
231 obligations of the parties under any provision of this Contract.

232 (c) The Contractor shall utilize the Project Water in accordance with all applicable
233 legal requirements.

234 (d) The Contractor shall make reasonable and beneficial use of all Project Water
235 or other water furnished pursuant to this Contract. Groundwater recharge programs (direct, indirect,
236 or in lieu), groundwater banking programs, surface water storage programs, and other similar
237 programs utilizing Project Water or other water furnished pursuant to this Contract conducted within
238 the Contractor's Service Area which are consistent with applicable State law and result in use
239 consistent with Federal Reclamation law will be allowed; Provided, That any direct recharge
240 program(s) is (are) described in the Contractor's Water Conservation Plan submitted pursuant to
241 Article 26 of this Contract; Provided, further, That such Water Conservation Plan demonstrates

242 sufficient lawful uses exist in the Contractor's Service Area so that using a long-term average, the
243 quantity of Delivered Water is demonstrated to be reasonable for such uses and in compliance with
244 Federal Reclamation law. Groundwater recharge programs, groundwater banking programs, surface
245 water storage programs, and other similar programs utilizing Project Water or other water furnished
246 pursuant to this Contract conducted outside the Contractor's Service Area may be permitted upon
247 written approval of the Contracting Officer, which approval will be based upon environmental
248 documentation, Project Water rights, and Project operational concerns. The Contracting Officer will
249 address such concerns in regulations, policies, or guidelines.

250 (e) The Contractor shall comply with requirements applicable to the Contractor in
251 biological opinion(s) prepared as a result of a consultation regarding the execution of this Contract
252 undertaken pursuant to Section 7 of the Endangered Species Act of 1973, as amended, that are within
253 the Contractor's legal authority to implement. The Existing Contract, which evidences in excess of
254 11 years of diversions for M&I purposes of the quantities of water provided in subdivision (a) of
255 Article 3 of this Contract, will be considered in developing an appropriate baseline for the Biological
256 Assessment prepared pursuant to the Endangered Species Act, and any other needed environmental
257 review. Nothing herein shall be construed to prevent the Contractor from challenging or seeking
258 judicial relief in a court of competent jurisdiction with respect to any biological opinion or other
259 environmental documentation referred to in this Article.

260 (f) Following the declaration of Water Made Available under Article 4 of this
261 Contract, the Contracting Officer will make a determination whether Project Water, or other water
262 available to the Project, can be made available to the Contractor in addition to the Contract Total
263 under Article 3 of this Contract during the Year without adversely impacting other Project

264 Contractors. At the request of the Contractor, the Contracting Officer will consult with the
265 Contractor prior to making such a determination. If the Contracting Officer determines that Project
266 Water, or other water available to the Project, can be made available to the Contractor, the
267 Contracting Officer will announce the availability of such water and shall so notify the Contractor as
268 soon as practical. The Contracting Officer will thereafter meet with the Contractor and other Project
269 Contractors capable of taking such water to determine the most equitable and efficient allocation of
270 such water. If the Contractor requests the delivery of any quantity of such water, the Contracting
271 Officer shall make such water available to the Contractor in accordance with applicable statutes,
272 regulations, guidelines, and policies.

273 (g) The Contractor may request permission to reschedule for use during the
274 subsequent Year some or all of the Water Made Available to the Contractor during the current Year
275 referred to as “carryover.” The Contractor may request permission to use during the current Year, a
276 quantity of Project Water which may be made available by the United States to the Contractor during
277 the subsequent Year referred to as “peruse.” The Contracting Officer’s written approval may permit
278 such uses in accordance with applicable statutes, regulations, guidelines, and policies.

279 (h) The Contractors’ right pursuant to Federal Reclamation law and applicable
280 State law to the reasonable and beneficial use of Water Delivered pursuant to this Contract during the
281 term thereof and any subsequent renewal contracts, as described in Article 2 of this Contract, during
282 the terms thereof shall not be disturbed so long as the Contractor shall fulfill all of its obligations
283 under this Contract and any renewals thereof. Nothing in the preceding sentence shall affect the
284 Contracting Officer’s ability to impose shortages under Article 11 or subdivision (b) of Article 12 of
285 this Contract or applicable provisions of any subsequent renewal contracts.

286 (i) Project Water furnished to the Contractor pursuant to this Contract may be
287 delivered for purposes other than those described in subdivision (o) of Article 1 of this Contract upon
288 written approval by the Contracting Officer in accordance with the terms and conditions of such
289 approval.

290 (j) The Contracting Officer shall make reasonable efforts to protect the water
291 rights necessary for the Project and to provide the water available under this Contract. The
292 Contracting Officer shall not object to participation by the Contractor, in the capacity and to the
293 extent permitted by law, in administrative proceedings related to the Project Water rights; Provided,
294 however, That the Contracting Officer retains the right to object to the substance of the Contractor's
295 position in such a proceeding; Provided further, that in such proceedings the Contracting Officer
296 shall recognize the Contractor has a legal right under the terms of this Contract to use Project Water.

297 TIME FOR DELIVERY OF WATER

298 4. (a) On or about February 20 of each Calendar Year, the Contracting Officer shall
299 announce the Contracting Officer's expected declaration of the Water Made Available. Such
300 declaration of Project operations will be expressed in terms of both Water Made Available and the
301 Recent Historic Average and will be updated monthly, and more frequently if necessary, based on
302 then-current operational and hydrologic conditions and a new declaration with changes, if any, to the
303 Water Made Available will be made. The Contracting Officer shall provide forecasts of Project
304 operations and the basis of the estimate, with relevant supporting information, upon the written
305 request of the Contractor. Concurrently with the declaration of the Water Made Available, the
306 Contracting Officer shall provide the Contractor with the updated Recent Historic Average.

307 (b) On or before each March 1 and at such other times as necessary, the Contractor

308 shall submit to the Contracting Officer a written schedule, satisfactory to the Contracting Officer,
309 showing the monthly quantities of Project Water to be delivered by the United States to the
310 Contractor pursuant to this Contract for the Year commencing on such March 1. The Contracting
311 Officer shall use all reasonable means to deliver Project Water according to the approved schedule
312 for the Year commencing on such March 1.

313 (c) The Contractor shall not schedule Project Water in excess of the quantity of
314 Project Water the Contractor intends to put to reasonable and beneficial use within the Contractor's
315 Service Area or sell, transfer or exchange pursuant to Article 9 of this Contract during any Year.

316 (d) Subject to the conditions set forth in subdivision (a) of Article 3 of this
317 Contract, the United States shall deliver Project Water to the Contractor in accordance with the initial
318 schedule submitted by the Contractor pursuant to subdivision (b) of this Article, or any written
319 revision(s), satisfactory to the Contracting Officer, thereto submitted within a reasonable time prior
320 to the date(s) on which the requested change(s) is/are to be implemented.

321 POINT OF DIVERSION AND RESPONSIBILITY FOR DISTRIBUTION OF WATER

322 5. (a) The Project Water to be furnished to the Contractor pursuant to this Contract
323 shall be made available to the Contractor at the mileposts identified in Exhibit "C" and any additional
324 point or points of delivery either on Project facilities or another location or locations mutually agreed
325 to in writing by the Contracting Officer and the Contractor.

326 (a)(1) All Project Water made available to the Contractor shall be conveyed to the
327 Contractor through the California Aqueduct pursuant to the CVP-SWP Wheeling Agreement or
328 Project facilities, in accordance with the approved delivery scheduled described in Article 4, and as
329 identified on Exhibit "C".

330 (b) Omitted

331 (c) The Contractor shall not deliver Project Water to land outside the Contractor's
332 Service Area unless approved in advance by the Contracting Officer.

333 (d) All Water Delivered to the Contractor pursuant to this Contract shall be
334 measured and recorded with equipment furnished, installed, operated, and maintained by the State at
335 the point or points of delivery established pursuant to subdivision (a) of this Article. Upon the
336 request of either party to this Contract, the Contracting Officer shall investigate, or cause to be
337 investigated by the responsible Operating Non-Federal Entity, the accuracy of such measurements
338 and shall take any necessary steps to adjust any errors appearing therein. For any period of time
339 when accurate measurements have not been made, the Contracting Officer shall consult with the
340 Contractor and the responsible Operating Non-Federal Entity, or the State prior to making a final
341 determination of the quantity delivered for that period of time.

342 (e) Absent a separate contrary written agreement with the Contractor, neither the
343 Contracting Officer nor the Operating Non-Federal Entity shall be responsible for the control,
344 carriage, handling, use, disposal, or distribution of Water Delivered to the Contractor pursuant to this
345 Contract beyond the delivery points specified in subdivision (a) of this Article. The Contractor shall
346 indemnify the United States, its officers, employees, agents, and assigns on account of damage or
347 claim of damage of any nature whatsoever for which there is legal responsibility, including property
348 damage, personal injury, or death arising out of or connected with the control, carriage, handling, use,
349 disposal, or distribution of such Water Delivered beyond such delivery points, except for any damage
350 or claim arising out of: (i) acts or omissions of the Contracting Officer or any of its officers,
351 employees, agents, or assigns, including any responsible Operating Non-Federal Entity, with the

352 intent of creating the situation resulting in any damage or claim; (ii) willful misconduct of the
353 Contracting Officer or any of its officers, employees, agents, or assigns, including any responsible
354 Operating Non-Federal Entity; (iii) negligence of the Contracting Officer or any of its officers,
355 employees, agents, or assigns.

356 MEASUREMENT OF WATER WITHIN THE CONTRACTOR'S SERVICE AREA

357 6. (a) The Contractor has established a measuring program satisfactory to the
358 Contracting Officer. The Contractor shall ensure that all surface water delivered for M&I purposes is
359 measured at each M&I service connection. The water measuring devices or water measuring
360 methods of comparable effectiveness must be acceptable to the Contracting Officer. The Contractor
361 shall be responsible for installing, operating, and maintaining and repairing all such measuring
362 devices and implementing all such water measuring methods at no cost to the United States. The
363 Contractor shall use the information obtained from such water measuring devices or water measuring
364 methods to ensure its proper management of the water. Nothing herein contained, however, shall
365 preclude the Contractor from establishing and collecting any charges, assessments, or other revenues
366 authorized by California law. The Contractor shall include a summary of all its annual surface water
367 deliveries in the annual report described in subdivision (c) of Article 26.

368 (b) To the extent the information has not otherwise been provided, upon execution
369 of this Contract, the Contractor shall provide to the Contracting Officer a written report describing
370 the measurement devices or water measuring methods being used or to be used to implement
371 subdivision (a) of this Article and identifying the M&I service connections or alternative
372 measurement programs approved by the Contracting Officer, at which such measurement devices or
373 water measuring methods are being used, and, if applicable, identifying the locations at which such

374 devices and/or methods are not yet being used including a time schedule for implementation at such
375 locations. The Contracting Officer shall advise the Contractor in writing within 60 days as to the
376 adequacy and necessary modifications, if any, of the measuring devices or water measuring methods
377 identified in the Contractor's report and if the Contracting Officer does not respond in such time, they
378 shall be deemed adequate. If the Contracting Officer notifies the Contractor that the measuring
379 devices or methods are inadequate, the parties shall within 60 days following the Contracting
380 Officer's response, negotiate in good faith the earliest practicable date by which the Contractor shall
381 modify said measuring devices and/or measuring methods as required by the Contracting Officer to
382 ensure compliance with subdivision (a) of this Article.

383 (c) All new surface water delivery systems installed within the Contractor's
384 Service Area after the effective date of this Contract shall also comply with the measurement
385 provisions described in subdivision (a) of this Article.

386 (d) The Contractor shall inform the Contracting Officer and the State of California
387 in writing by April 30 of each Year of the monthly volume of surface water delivered within the
388 Contractor's Service Area during the previous Year.

389 (e) The Contractor shall inform the Contracting Officer on or before the 20th
390 calendar day of each month of the quantity of M&I Water taken during the preceding month.

391 RATES AND METHOD OF PAYMENT FOR WATER

392 7. (a) The Contractor shall pay the United States as provided in this Article for all
393 Delivered Water at Rates, Charges, and the Tiered Pricing Component established in accordance
394 with: (i) the Secretary's then-existing ratesetting policy for M&I Water. Such ratesetting policies
395 shall be amended, modified, or superseded only through a public notice and comment procedure; (ii)

396 applicable Federal Reclamation law and associated rules and regulations, or policies; and (iii) other
397 applicable provisions of this Contract. Payments shall be made by cash transaction, wire transfer, or
398 any other mechanism as may be agreed to in writing by the Contractor and the Contracting Officer.
399 The Rates, Charges, and Tiered Pricing Components applicable to the Contractor upon execution of
400 this Contract are set forth in Exhibit “B”, as may be revised annually.

401 (b) The Contracting Officer shall notify the Contractor of the Rates, Charges, and
402 Tiered Pricing Components as follows:

403 (1) Prior to July 1 of each Calendar Year, the Contracting Officer shall
404 provide the Contractor an estimate of the Charges for Project Water that will be applied to the period
405 October 1, of the current Calendar Year, through September 30, of the following Calendar Year, and
406 the basis for such estimate. The Contractor shall be allowed not less than two months to review and
407 comment on such estimates. On or before September 15 of each Calendar Year, the Contracting
408 Officer shall notify the Contractor in writing of the Charges to be in effect during the period
409 October 1 of the current Calendar Year, through September 30, of the following Calendar Year, and
410 such notification shall revise Exhibit “B.”

411 (2) Prior to October 1 of each Calendar Year, the Contracting Officer shall
412 make available to the Contractor an estimate of the Rates and Tiered Pricing Components for Project
413 Water for the following Year and the computations and cost allocations upon which those Rates are
414 based. The Contractor shall be allowed not less than two months to review and comment on such
415 computations and cost allocations. By December 31 of each Calendar Year, the Contracting Officer
416 shall provide the Contractor with the final Rates and Tiered Pricing Components to be in effect for

417 the upcoming Year, and such notification shall revise Exhibit “B.”

418 (c) At the time the Contractor submits the initial schedule for the delivery of
419 Project Water for each Year pursuant to subdivision (b) of Article 4 of this Contract, the Contractor
420 shall make an advance payment to the United States equal to the total amount payable pursuant to the
421 applicable Rate(s) set under subdivision (a) of this Article, for the Project Water scheduled to be
422 delivered pursuant to this Contract during the first two calendar months of the Year. Before the end
423 of the first month and before the end of each calendar month thereafter, the Contractor shall make an
424 advance payment to the United States, at the Rate(s) set under subdivision (a) of this Article, for the
425 Water Scheduled to be delivered pursuant to this Contract during the second month immediately
426 following. Adjustments between advance payments for Water Scheduled and payments at Rates due
427 for Water Delivered shall be made before the end of the following month; Provided, That any revised
428 schedule submitted by the Contractor pursuant to Article 4 of this Contract which increases the
429 amount of Water Delivered pursuant to this Contract during any month shall be accompanied with
430 appropriate advance payment, at the Rates then in effect, to assure that Project Water is not delivered
431 to the Contractor in advance of such payment. In any month in which the quantity of Water
432 Delivered to the Contractor pursuant to this Contract equals the quantity of Water Scheduled and paid
433 for by the Contractor, no additional Project Water shall be delivered to the Contractor unless and
434 until an advance payment at the Rates then in effect for such additional Project Water is made. Final
435 adjustment between the advance payments for the Water Scheduled and payments for the quantities
436 of Water Delivered during each Year pursuant to this Contract shall be made as soon as practicable
437 but no later than April 30th of the following Year, or 60 days after the delivery of Project Water
438 carried over under subdivision (g) of Article 3 of this Contract if such water is not delivered by the

439 last day of February.

440 (d) The Contractor shall also make a payment in addition to the Rate(s) in
441 subdivision (c) of this Article to the United States for Water Delivered, at the Charges and the
442 appropriate Tiered Pricing Component then in effect, before the end of the month of delivery. The
443 payments shall be consistent with the quantities of M&I Water Delivered as shown in the water
444 delivery report for the subject month prepared by the Operating Non-Federal Entity or, if there is no
445 Operating Non-Federal Entity, by the Contracting Officer. The water delivery report shall be deemed
446 a bill for the payment of Charges and the applicable Tiered Pricing Component for Water Delivered.
447 Adjustment for overpayment or underpayment of Charges shall be made through the adjustment of
448 payments due to the United States for Charges for the next month. Any amount to be paid for past
449 due payment of Charges and the Tiered Pricing Component shall be computed pursuant to Article 20
450 of this Contract.

451 (e) The Contractor shall pay for any Water Delivered under subdivision (d), (f), or
452 (g) of Article 3 of this Contract as determined by the Contracting Officer pursuant to applicable
453 statutes, associated regulations, any applicable provisions of guidelines or ratesetting policies;
454 Provided, That the Rate for Water Delivered under subdivision (d) of Article 3 of this Contract shall
455 be no more than the otherwise applicable Rate for M&I Water under subdivision (a) of this Article.

456 (f) Payments to be made by the Contractor to the United States under this
457 Contract may be paid from any revenues available to the Contractor.

458 (g) All revenues received by the United States from the Contractor relating to the
459 delivery of Project Water or the delivery of non-Project water through Project facilities shall be
460 allocated and applied in accordance with Federal Reclamation law and the associated rules or

461 regulations, and the then current Project ratesetting policies for M&I Water.

462 (h) The Contracting Officer shall keep its accounts pertaining to the administration
463 of the financial terms and conditions of its long-term contracts, in accordance with applicable Federal
464 standards, so as to reflect the application of Project costs and revenues. The Contracting Officer
465 shall, each Year upon request of the Contractor, provide to the Contractor a detailed accounting of all
466 Project and Contractor expense allocations, the disposition of all Project and Contractor revenues,
467 and a summary of all water delivery information. The Contracting Officer and the Contractor shall
468 enter into good faith negotiations to resolve any discrepancies or disputes relating to accountings,
469 reports, or information.

470 (i) The parties acknowledge and agree that the efficient administration of this
471 Contract is their mutual goal. Recognizing that experience has demonstrated that mechanisms,
472 policies, and procedures used for establishing Rates, Charges, and Tiered Pricing Components,
473 and/or for making and allocating payments, other than those set forth in this Article may be in the
474 mutual best interest of the parties, it is expressly agreed that the parties may enter into agreements to
475 modify the mechanisms, policies, and procedures for any of those purposes while this Contract is in
476 effect without amending this Contract.

477 (j) (1) Beginning at such time as deliveries of Project Water in a Year exceed
478 80 percent of the Contract Total, then before the end of the month following the month of delivery
479 the Contractor shall make an additional payment to the United States equal to the applicable Tiered
480 Pricing Component. The Tiered Pricing Component for the amount of Water Delivered in excess of
481 80 percent of the Contract Total, but less than or equal to 90 percent of the Contract Total, shall equal
482 the one-half of the difference between the Rate established under subdivision (a) of this Article and

483 the M&I Full Cost Water Rate. The Tiered Pricing Component for the amount of Water Delivered
484 which exceeds 90 percent of the Contract Total shall equal the difference between (i) the Rate
485 established under subdivision (a) of this Article and (ii) the M&I Full Cost Water Rate.

486 (2) Omitted.

487 (3) For purposes of determining the applicability of the Tiered Pricing
488 Components pursuant to this Article, Water Delivered shall include Project Water that the Contractor
489 transfers to others but shall not include Project Water transferred to the Contractor.

490 (k) For the term of this Contract, Rates under the respective ratesetting policies
491 will be established to recover only reimbursable O&M (including any deficits) and capital costs of
492 the Project, as those terms are used in the then-current Project ratesetting policies, and interest, where
493 appropriate, except in instances where a minimum Rate is applicable in accordance with the relevant
494 Project ratesetting policy. Changes of significance in practices which implement the Contracting
495 Officer s ratesetting policies will not be implemented until the Contracting Officer has provided the
496 Contractor an opportunity to discuss the nature, need, and impact of the proposed change.

497 (l) Except as provided in subsections 3405(a)(1)(B) and 3405(f) of the CVPIA,
498 the Rates for Project Water transferred by the Contractor shall be the Contractor’s Rates adjusted
499 upward or downward to reflect the changed costs of delivery (if any) of the transferred Project Water
500 to the transferee’s point of delivery in accordance with the then applicable CVP Ratesetting Policy.

501 (m) Omitted.

502 (n) The Contractor asserts that it is not legally obligated to pay any Project deficits
503 claimed by the United States to have accrued as of the date of this Contract or deficit-related interest

504 charges thereon. By entering into this Contract, the Contractor does not waive any legal rights or
505 remedies that it may have with respect to such disputed issues. Notwithstanding the execution of this
506 Contract and payments made hereunder, the Contractor may challenge in the appropriate
507 administrative or judicial forums: (1) the existence, computation, or imposition of any deficit
508 charges accruing during the term of the Existing Contract; (2) interest accruing on any such deficits;
509 (3) the inclusion of any such deficit charges or interest in the Rates; (4) the application by the United
510 States of payments made by the Contractor under its Existing Contract; and (5) the application of
511 such payments in the Rates. The Contracting Officer agrees that the Contractor shall be entitled to
512 the benefit of any administrative or judicial ruling in favor of any Project M&I contractor on any of
513 these issues, and credits for payments heretofore made, provided that the basis for such ruling is
514 applicable to the Contractor.

515 (o) The Contractor shall pay the cost of conveyance of Project Water furnished
516 pursuant to this Contract directly to the State pursuant to the then current CVP-SWP Wheeling
517 Agreement.

518 8. Omitted.

519 9. Omitted.

520 APPLICATION OF PAYMENTS AND ADJUSTMENTS

521 10. (a) The amount of any overpayment by the Contractor of the Contractor's O&M,
522 Capital, and deficit (if any) obligations for the Year shall be applied first to any current liabilities of
523 the Contractor arising out of this Contract then due and payable. Overpayments of more than \$1,000
524 shall be refunded at the Contractor's request. In lieu of a refund, any amount of such overpayment at
525 the option of the Contractor, may be credited against amounts to become due to the United States by

526 the Contractor. With respect to overpayment, such refund or adjustment shall constitute the sole
527 remedy of the Contractor or anyone having or claiming to have the right to the use of any of the
528 Project Water supply provided for herein. All credits and refunds of overpayments shall be made
529 within 30 days of the Contracting Officer obtaining direction as to how to credit or refund such
530 overpayment in response to the notice to the Contractor that it has finalized the accounts for the Year
531 in which the overpayment was made.

532 (b) All advances for miscellaneous costs incurred for work requested by the
533 Contractor pursuant to Article 25 of this Contract shall be adjusted to reflect the actual costs when
534 the work has been completed. If the advances exceed the actual costs incurred, the difference will be
535 refunded to the Contractor. If the actual costs exceed the Contractor's advances, the Contractor will
536 be billed for the additional costs pursuant to Article 25 of this Contract.

537 TEMPORARY REDUCTIONS--RETURN FLOWS

538 11. (a) Subject to: (i) the authorized purposes and priorities of the Project and the
539 requirements of Federal law and (ii) the obligations of the United States under existing contracts, or
540 renewals thereof, providing for water deliveries from the Project, the Contracting Officer shall make
541 all reasonable efforts to optimize Project Water deliveries to the Contractor as provided in this
542 Contract.

543 (b) The Contracting Officer may temporarily discontinue or reduce the quantity of
544 Water Delivered to the Contractor as herein provided for the purposes of investigation, inspection,
545 maintenance, repair, or replacement of any of the Project facilities or any part thereof necessary for
546 the delivery of Project Water to the Contractor, but so far as feasible the Contracting Officer will give
547 the Contractor due notice in advance of such temporary discontinuance or reduction, except in case

548 of emergency, in which case no notice need be given; Provided, That the United States shall use its
549 best efforts to avoid any discontinuance or reduction in such service. Upon resumption of service
550 after such reduction or discontinuance, and if requested by the Contractor, the United States will, if
551 possible, deliver the quantity of Project Water which would have been delivered hereunder in the
552 absence of such discontinuance or reduction.

553 (c) The United States reserves the right to all seepage and return flow water
554 derived from Water Delivered to the Contractor hereunder which escapes or is discharged beyond the
555 Contractor's Service Area; Provided, That this shall not be construed as claiming for the United
556 States any right as seepage or return flow being put to reasonable and beneficial use pursuant to this
557 Contract within the Contractor's Service Area by the Contractor or those claiming by, through, or
558 under the Contractor.

559 CONSTRAINTS ON THE AVAILABILITY OF WATER

560 12. (a) In its operation of the Project, the Contracting Officer will use all reasonable
561 means to guard against a Condition of Shortage in the quantity of water to be made available to the
562 Contractor pursuant to this long-term renewal Contract. In the event the Contracting Officer
563 determines that a Condition of Shortage appears probable, the Contracting Officer will notify the
564 Contractor of said determination as soon as practicable.

565 (b) If there is a Condition of Shortage because of errors in physical operations of
566 the Project, drought, other physical causes beyond the control of the Contracting Officer or actions
567 taken by the Contracting Officer to meet legal obligations then, except as provided in subdivision (a)
568 of Article 18 of this Contract, no liability shall accrue against the United States or any of its officers,
569 agents, or employees for any damage, direct or indirect, rising therefrom.

570 (c) Omitted.

571 (d) Project Water furnished under this Contract will be allocated in accordance
572 with the then-existing Central Valley Project M&I Water Shortage Policy. Such policy shall be
573 amended, modified, or superseded only through a public notice and comment procedure.

574 (e) By entering into this Contract, the Contractor does not waive any legal rights
575 or remedies it may have to file or participate in any administrative or judicial proceeding contesting
576 (i) the sufficiency of the Central Valley Project M&I Water Shortage Policy; (ii) the substance of
577 such a policy; or (iii) the applicability of such a policy; or (iv) the manner in which such policy is
578 implemented in order to allocate Project Water between M&I and irrigation purposes; Provided, That
579 the Contractor has commenced any such judicial challenge or any administrative procedures
580 necessary to institute any judicial challenge within six months of the policy becoming final. By
581 agreeing to the foregoing, the Contracting Officer does not waive any legal defenses or remedies that
582 it may then have to assert in such a proceeding. By agreeing to the foregoing, the Contracting
583 Officer does not waive any legal defenses or remedies that it may have to assert in such a proceeding.
584 Nothing contained herein shall be interpreted to validate or invalidate the Central Valley Project
585 M&I Water Shortage Policy.

586 13. Omitted.

587 RULES AND REGULATIONS

588 14. The parties agree that the delivery of M&I Water or use of Federal facilities pursuant
589 to this Contract is subject to the applicable provisions of Federal Reclamation law, and any

590 applicable rules and regulations promulgated by the Secretary of the Interior under such law.

591 WATER AND AIR POLLUTION CONTROL

592 15. The Contractor, in carrying out this Contract, shall comply with all applicable water
593 and air pollution laws and regulations of the United States and the State of California, and shall
594 obtain all required permits or licenses from the appropriate Federal, State, or local authorities.

595 QUALITY OF WATER

596 16. (a) Project facilities used to deliver Project Water to the Contractor pursuant to
597 this Contract shall be operated and maintained to enable the United States to deliver Project Water to
598 the Contractor in accordance with the water quality standards specified in subsection 2(b) of the Act
599 of August 26, 1937 (50 Stat. 865), as added by Section 101 of the Act of October 27, 1986 (100 Stat.
600 3050) or other existing Federal laws. The United States is under no obligation to construct or furnish
601 water treatment facilities to maintain or to improve the quality of Water Delivered to the Contractor
602 pursuant to this Contract. The United States does not warrant the quality of Water Delivered to the
603 Contractor pursuant to this Contract. The Contractor shall be responsible for compliance with all
604 State and Federal water quality standards applicable to the Contractor for surface and subsurface
605 agricultural drainage discharges generated through the use of Federal or Contractor facilities or
606 Project Water provided by the Contractor within its service area.

607 (b) The O&M of Project facilities shall be performed in such manner as is
608 practicable to maintain the quality of raw Water Made Available through such facilities at the highest
609 level reasonably attainable as determined by the Contracting Officer.

610 17. Omitted.

611 OPINIONS AND DETERMINATIONS

612 18. (a) Where the terms of this Contract provide for actions to be based upon the
613 opinion or determination of either party to this Contract, said terms shall not be construed as
614 permitting such action to be predicated upon arbitrary, capricious, or unreasonable opinions or
615 determinations. Both parties, notwithstanding any other provisions of this Contract, expressly
616 reserve the right to seek relief from and appropriate adjustment for any such arbitrary, capricious, or
617 unreasonable opinion or determination. Each opinion or determination by either party shall be
618 provided in a timely manner. Nothing in subdivision (a) of Article 18 of this Contract is intended to
619 or shall affect or alter the standard of judicial review applicable under Federal law to any opinion or
620 determination implementing a specific provision of Federal law embodied in statute or regulation.

621 (b) The Contracting Officer shall have the right to make determinations necessary
622 to administer this Contract that are consistent with the expressed and implied provisions of this
623 Contract, the laws of the United States and of the State of California, and the rules and regulations
624 promulgated by the Secretary of the Interior. Such determinations shall be made in consultation with
625 the Contractor.

626 COORDINATION AND COOPERATION

627 19. (a) In order to further their mutual goals and objectives, the Contracting Officer
628 and the Contractor shall communicate, coordinate, and cooperate with each other, and with other
629 affected Project Contractors, in order to improve the operation and management of the Project. The
630 communication, coordination, and cooperation regarding operations and management shall include,

631 but not be limited to, any action which will or may materially affect the quantity or quality of Project
632 Water supply, the allocation of Project Water supply, and Project financial matters including, but not
633 limited to, budget issues. The communication, coordination, and cooperation provided for hereunder
634 shall extend to all provisions of this Contract. Each party shall retain exclusive decision making
635 authority for all actions, opinion, and determinations to be made by the respective party.

636 (b) Within 120 days following the effective date of this Contract, the Contractor,
637 other affected Project Contractors, and the Contracting Officer shall arrange to meet with interested
638 Project Contractors to develop a mutually agreeable, written Project-wide process, which may be
639 amended as necessary separate and apart from this Contract. The goal of this process shall be to
640 provide, to the extent practicable, the means of mutual communication and interaction regarding
641 significant decisions concerning Project operation and management on a real-time basis.

642 (c) In light of the factors referred to in subdivision (b) of Article 3 of this
643 Contract, it is the intent of the Secretary to improve water supply reliability. To carry out this intent:

644 (1) The Contracting Officer will, at the request of the Contractor, assist in
645 the development of integrated resource management plans for the Contractor. Further, the

646 Contracting Officer will, as appropriate, seek authorizations for implementation of partnerships to
647 improve water supply, water quality, and reliability.

648 (2) The Secretary will, as appropriate, pursue program and project
649 implementation and authorization in coordination with Project Contractors to improve the water
650 supply, water quality, and reliability of the Project for all Project purposes.

651 (3) The Secretary will coordinate with Project Contractors and the State of

652 California to seek improved water resource management.

653 (4) The Secretary will coordinate actions of agencies within the
654 Department of the Interior that may impact the availability of water for Project purposes.

655 (5) The Contracting Officer shall periodically, but not less than annually,
656 hold division level meetings to discuss Project operations, division level water management
657 activities, and other issues as appropriate.

658 (d) Without limiting the contractual obligations of the Contracting Officer under
659 the other Articles of this Contract, nothing in this Article shall be construed to limit or constrain the
660 Contracting Officer's ability to communicate, coordinate, and cooperate with the Contractor or other
661 interested stakeholders or to make decisions in a timely fashion as needed to protect health, safety,
662 physical integrity of structures or facilities.

663 CHARGES FOR DELINQUENT PAYMENTS

664 20. (a) The Contractor shall be subject to interest, administrative and penalty charges
665 on delinquent installments or payments. When a payment is not received by the due date, the
666 Contractor shall pay an interest charge for each day the payment is delinquent beyond the due date.
667 When a payment becomes sixty (60) days delinquent, the Contractor shall pay an administrative
668 charge to cover additional costs of billing and processing the delinquent payment. When a payment
669 is delinquent ninety (90) days or more, the Contractor shall pay an additional penalty charge of six
670 (6%) percent per year for each day the payment is delinquent beyond the due date. Further, the
671 Contractor shall pay any fees incurred for debt collection services associated with a delinquent
672 payment.

673 (b) The interest charge rate shall be the greater of the rate prescribed quarterly in
674 the Federal Register by the Department of the Treasury for application to overdue payments, or the
675 interest rate of one-half of one (0.5%) percent per month prescribed by Section 6 of the Reclamation
676 Project Act of 1939 (Public Law 76-260). The interest charge rate shall be determined as of the due
677 date and remain fixed for the duration of the delinquent period.

678 (c) When a partial payment on a delinquent account is received, the amount
679 received shall be applied, first to the penalty, second to the administrative charges, third to the
680 accrued interest, and finally to the overdue payment.

681

EQUAL OPPORTUNITY

682 21. During the performance of this renewal contract, the contractor agrees all Federal
683 statutes and regulations regarding employment and employment discrimination applicable to Federal
684 agencies shall be fully enforced.

685

GENERAL OBLIGATION--BENEFITS CONDITIONED UPON PAYMENT

686 22. (a) The obligation of the Contractor to pay the United States as provided in this
687 Contract is a general obligation of the Contractor notwithstanding the manner in which the obligation
688 may be distributed among the Contractor's water users and notwithstanding the default of individual
689 water users in their obligations to the Contractor.

690 (b) The payment of charges becoming due hereunder is a condition precedent to
691 receiving benefits under this Contract. The United States shall not make water available to the
692 Contractor through Project facilities during any period in which the Contractor may be in arrears in
693 the advance payment of water rates due the United States. The Contractor shall not furnish water
694 made available pursuant to this Contract for lands or parties which are in arrears in the advance
695 payment of water rates levied or established by the Contractor.

696 (c) With respect to subdivision (b) of this Article, the Contractor shall have no
697 obligation to require advance payment for water rates which it levies.

698

COMPLIANCE WITH CIVIL RIGHTS LAWS AND REGULATIONS

699 23. (a) The Contractor shall comply with Title VI of the Civil Rights Act of 1964 (42
700 U.S.C. 2000d), Section 504 of the Rehabilitation Act of 1975 (P.L. 93-112, as amended), the Age
701 Discrimination Act of 1975 (42 U.S.C. 6101, et seq.) and any other applicable civil rights laws, as
702 well as with their respective implementing regulations and guidelines imposed by the U.S.
703 Department of the Interior and/or Bureau of Reclamation.

704 (b) These statutes require that no person in the United States shall, on the grounds
705 of race, color, national origin, handicap, or age, be excluded from participation in, be denied the
706 benefits of, or be otherwise subjected to discrimination under any program or activity receiving
707 financial assistance from the Bureau of Reclamation. By executing this Contract, the Contractor
708 agrees to immediately take any measures necessary to implement this obligation, including
709 permitting officials of the United States to inspect premises, programs, and documents.

710 (c) The Contractor makes this agreement in consideration of and for the purpose
711 of obtaining any and all Federal grants, loans, contracts, property discounts, or other Federal financial
712 assistance extended after the date hereof to the Contractor by the Bureau of Reclamation, including

713 installment payments after such date on account of arrangements for Federal financial assistance
714 which were approved before such date. The Contractor recognizes and agrees that such Federal
715 assistance will be extended in reliance on the representations and agreements made in this Article,
716 and that the United States reserves the right to seek judicial enforcement thereof.

717 24. Omitted.

718 CONTRACTOR TO PAY CERTAIN MISCELLANEOUS COSTS

719 25. In addition to all other payments to be made by the Contractor pursuant to this
720 Contract, the Contractor shall pay to the United States, within 60 days after receipt of a bill and
721 detailed statement submitted by the Contracting Officer to the Contractor for such specific items of
722 direct cost incurred by the United States for work requested by the Contractor associated with this
723 Contract plus indirect costs in accordance with applicable Bureau of Reclamation policies and
724 procedures. All such amounts referred to in this Article shall not exceed the amount agreed to in
725 writing in advance by the Contractor. This Article shall not apply to costs for routine contract
726 administration.

727 26. Omitted.

728 EXISTING OR ACQUIRED WATER OR WATER RIGHTS

729 27. The provisions of this Contract shall not be applicable to or affect non-Project water
730 or water rights now owned or hereafter acquired by the Contractor or any user of such water within
731 the Contractor's Service Area. Any such water shall not be considered Project Water under this
732 Contract. In addition, this Contract shall not be construed as limiting or curtailing any rights which
733 the Contractor or any water user within the Contractor's Service Area acquires or has available under
734 any other contract pursuant to Federal Reclamation law.

735 OPERATION AND MAINTENANCE BY NON-FEDERAL ENTITY

736 28. (a) The O&M of a portion of the Project facilities which serve the
737 Contractor, and responsibility for funding a portion of the costs of such O&M, have been transferred
738 to the San Luis & Delta-Mendota Water Authority, an Operating Non-Federal Entity by separate
739 agreement (8-07-20-X0354) between United States and the Operating Non-Federal Entity San Luis &
740 Delta-Mendota Water Authority. That separate agreement shall not interfere with or affect the rights
741 or obligations of the Contractor or the United States hereunder.

742 (b) The Contracting Officer has previously notified the Contractor in writing that
743 the O&M of a portion of the Project facilities which serve the Contractor has been transferred to the
744 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority, and therefore, the
745 Contractor shall pay directly to the Operating Non-Federal Entity San Luis & Delta-Mendota Water
746 Authority, or to any successor approved by the Contracting Officer under the terms and conditions of
747 the separate agreement between the United States and the Operating Non-Federal Entity San Luis &
748 Delta Mendota Water Authority described in subdivision (a) of this Article, all Rates, Charges, or
749 assessments of any kind, including any assessment for reserve funds, which the Operating
750 Non-Federal Entity San Luis & Delta Mendota Water Authority or such successor determines, sets,
751 or establishes for the O&M of the portion of the Project facilities operated and maintained by the
752 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or such successor. Such
753 direct payments to the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or
754 such successor shall not relieve the Contractor of its obligation to pay directly to the United States
755 the Contractor's share of the Project Rates, Charges, and Tiered Pricing Components except to the
756 extent the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority collects

757 payments on behalf of the United States in accordance with the separate agreement identified in
758 subdivision (a) of this Article.

759 (c) For so long as the O&M of any portion of the Project facilities serving the
760 Contractor is performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water
761 Authority, or any successor thereto, the Contracting Officer shall adjust those components of the
762 Rates for Water Delivered under this Contract representing the cost associated with the activity being
763 performed by the Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority or its
764 successor.

765 (d) In the event the O&M of the Project facilities operated and maintained by the
766 Operating Non-Federal Entity San Luis & Delta-Mendota Water Authority is re-assumed by the
767 United States during the term of this Contract, the Contracting Officer shall so notify the Contractor,
768 in writing, and present to the Contractor a revised Exhibit "B" which shall include the portion of the
769 Rates to be paid by the Contractor for Project Water under this Contract representing the O&M costs
770 of the portion of such Project facilities which have been re-assumed. The Contractor shall, thereafter,
771 in the absence of written notification from the Contracting Officer to the contrary, pay the Rates,
772 Charges, and Tiered Pricing Component(s) specified in the revised Exhibit "B" directly to the United
773 States in compliance with Article 7 of this Contract.

774 CONTINGENT ON APPROPRIATION OR ALLOTMENT OF FUNDS

775 29. The expenditure or advance of any money or the performance of any obligation of the
776 United States under this Contract shall be contingent upon appropriation or allotment of funds.
777 Absence of appropriation or allotment of funds shall not relieve the Contractor from any obligations
778 under this Contract. No liability shall accrue to the United States in case funds are not appropriated
779 or allotted.

780

BOOKS, RECORDS, AND REPORTS

781 30. (a) The Contractor shall establish and maintain accounts and other books and
782 records pertaining to administration of the terms and conditions of this Contract, including: the
783 Contractor's financial transactions, water supply data, and Project land and right-of-way agreements;
784 water use data; and other matters that the Contracting Officer may require. Reports thereon shall be
785 furnished to the Contracting Officer in such form and on such date or dates as the Contracting Officer
786 may require. Subject to applicable Federal laws and regulations, each party to this Contract shall
787 have the right during office hours to examine and make copies of the other party's books and records
788 relating to matters covered by this Contract.

789 (b) Notwithstanding the provisions of subdivision (a) of this Article, no books,
790 records, or other information shall be requested from the Contractor by the Contracting Officer unless
791 such books, records, or information are reasonably related to the administration or performance of
792 this Contract. Any such request shall allow the Contractor a reasonable period of time within which
793 to provide the requested books, records, or information.

794 (c) At such time as the Contractor provides information to the Contracting Officer
795 pursuant to subdivision (a) of this Article, a copy of such information shall be provided to the
796 Operating Non-Federal Entity.

797 ASSIGNMENT LIMITED--SUCCESSORS AND ASSIGNS OBLIGATED

798 31. (a) The provisions of this Contract shall apply to and bind the successors and
799 assigns of the parties hereto, but no assignment or transfer of this Contract or any right or interest
800 therein shall be valid until approved in writing by the Contracting Officer.

801 (b) The assignment of any right or interest in this Contract by either party shall not
802 interfere with the rights or obligations of the other party to this Contract absent the written
803 concurrence of said other party.

804 (c) The Contracting Officer shall not unreasonably condition or withhold approval
805 of any proposed assignment.

806 SEVERABILITY

807 32. In the event that a person or entity who is neither (i) a party to a Project contract, nor
808 (ii) a person or entity that receives Project Water from a party to a Project contract, nor (iii) an
809 association or other form of organization whose primary function is to represent parties to Project
810 contracts, brings an action in a court of competent jurisdiction challenging the legality or
811 enforceability of a provision included in this Contract and said person, entity, association, or
812 organization obtains a final court decision holding that such provision is legally invalid or
813 unenforceable and the Contractor has not intervened in that lawsuit in support of the plaintiff(s), the
814 parties to this Contract shall use their best efforts to (i) within 30 days of the date of such final court
815 decision identify by mutual agreement the provisions in this Contract which must be revised and (ii)
816 within three months thereafter promptly agree on the appropriate revision(s). The time periods
817 specified above may be extended by mutual agreement of the parties. Pending the completion of the
818 actions designated above, to the extent it can do so without violating any applicable provisions of
819 law, the United States shall continue to make the quantities of Project Water specified in this
820 Contract available to the Contractor pursuant to the provisions of this Contract which were not found
821 to be legally invalid or unenforceable in the final court decision.

822 RESOLUTION OF DISPUTES

823 33. Should any dispute arise concerning any provisions of this Contract, or the parties'
824 rights and obligations thereunder, the parties shall meet and confer in an attempt to resolve the
825 dispute. Prior to the Contractor commencing any legal action, or the Contracting Officer referring

826 any matter to Department of Justice, the party shall provide to the other party 30 days' written notice
827 of the intent to take such action; Provided, That such notice shall not be required where a delay in
828 commencing an action would prejudice the interests of the party that intends to file suit. During the
829 30-day notice periods, the Contractor and the Contracting Officer shall meet and confer in an attempt
830 to resolve the dispute. Except as specifically provided, nothing herein is intended to waive or abridge
831 any right or remedy that the Contractor or the United States may have.

832 OFFICIALS NOT TO BENEFIT

833 34. No Member of or Delegate to Congress, Resident Commissioner, or official of the
834 Contractor shall benefit from this Contract other than as a water user or landowner in the same
835 manner as other water users or landowners.

836 CHANGES IN CONTRACTOR'S SERVICE AREA

837 35. (a) While this Contract is in effect, no change may be made in the Contractor's
838 Service Area, by inclusion or exclusion of lands, dissolution, consolidation, merger, or otherwise,
839 except upon the Contracting Officer's written consent.

840 (b) Within 30 days of receipt of a request for such a change, the Contracting
841 Officer will notify the Contractor of any additional information required by the Contracting Officer
842 for processing said request, and both parties will meet to establish a mutually agreeable schedule for
843 timely completion of the process. Such process will analyze whether the proposed change is likely
844 to: (i) result in the use of Project Water contrary to the terms of this Contract; (ii) impair the ability of
845 the Contractor to pay for Project Water furnished under this Contract or to pay for any Federally-
846 constructed facilities for which the Contractor is responsible; and (iii) have an impact on any Project
847 Water rights applications, permits, or licenses. In addition, the Contracting Officer shall comply with

848 the National Environmental Policy Act and the Endangered Species Act. The Contractor will be
849 responsible for all costs incurred by the Contracting Officer in this process, and such costs will be
850 paid in accordance with Article 25 of this Contract.

851 36. Omitted.

852 NOTICES

853 37. Any notice, demand, or request authorized or required by this Contract shall be
854 deemed to have been given, on behalf of the Contractor, when mailed, postage prepaid, or delivered
855 to the Area Manager, South-Central California Area Office, 1243 N Street, Fresno, California 93721,
856 and on behalf of the United States, when mailed, postage prepaid, or delivered to the San Joaquin
857 Valley National Cemetery, U. S. Department of Veterans Affairs, 32053 West McCabe Road,
858 Gustine, California 95322. The designation of the addressee or the address may be changed by
859 notice given in the same manner as provided in this Article for other notices.

860 38. Omitted.

861 IN WITNESS WHEREOF, the parties hereto have executed this Contract as of the day and
862 year first above written.

863 THE UNITED STATES OF AMERICA

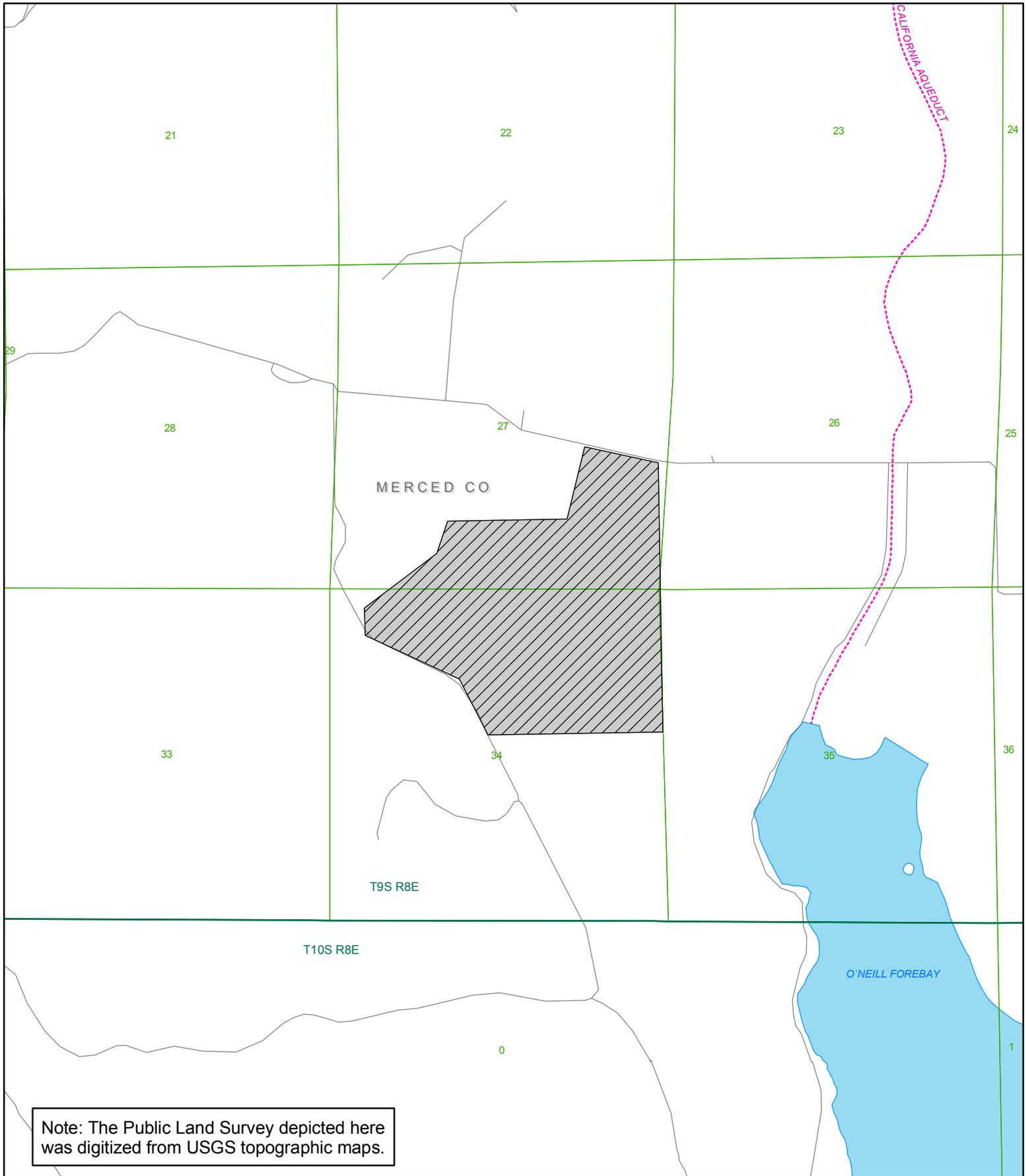
864 By: _____
865 Regional Director, Mid-Pacific Region
866 Bureau of Reclamation

867 (SEAL)

U. S. DEPARTMENT OF VETERAN AFFAIRS

868 By: _____
869 Director, Office of Construction
870 Management, National Cemetery
871 Administration

872 (H:\pub 440\LTRC\Final Draft LTRC's – Fresno, Tracy\10-28-04 Veterans Final Draft Contract with
873 exhibits.doc)



Note: The Public Land Survey depicted here was digitized from USGS topographic maps.

-  District Boundary
-  Contractor's Service Area

**US Dept. of Veterans Affairs
(San Joaquin National Cemetery)**
Contract No. 3-07-20-W1124-LTR1
EXHIBIT A

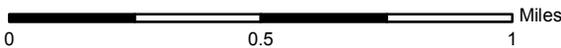


EXHIBIT B
DEPARTMENT OF VETERAN'S AFFAIRS
SAN JOAQUIN VALLEY NATIONAL CEMETERY
Water Rates and Charges

2004 Rates Per Acre-Foot

M&I Water

COST-OF-SERVICE RATES:

Capital Rate: \$16.73

O&M Rates:

Water Marketing	\$5.01
Storage	\$6.38
Conveyance	*
Conveyance Pumping	*
	*

Deficit Rates:

Non-Interest Bearing	\$8.12
Interest Bearing	\$9.63

CFO/PFR Adj Rate: ** \$0.23

TOTAL COST-OF-SERVICE RATES : \$36.47

CHARGES UNDER P.L. 102-575
 TO RESTORATION FUND***

Restoration Payments (3407 (d) (2) (A) \$15.64

* Conveyance operation and maintenance costs were removed for ratesetting purposes and are billed directly to the Non-Federal Operating Entity.

** Rate represents the Chief Financial Officer (CFO) adjustment and Provision for Replacement (PFR) credit for option 2 cost deferment to be distributed over a 5-year period beginning with 2003 water rates.

*** Restoration fund charges are payments in addition to the water rates and were determined pursuant to Title XXXIV of Public Law 102-575. Restoration fund charges are on a fiscal year basis (10/1-9/30).

Contract No. 3-07-20-W1124-LTR1

EXHIBIT C
[points of diversion]

Turnout Location(s):

Reach 2B, DWR Mile Post 66.12 on the California Aqueduct